IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

C.W.P. No. 6406 of 2006
Date of Decision: January 10, 2007

Baldev Singh ***.....Petitioner***

Versus

Punjab and Sind Bank and Ors. ***.....Respondent***

Coram: ***Hon'ble Mr.Justice S.S.Nijjar***
Hon'ble Mr. Justice S.S.Saron

Present: Mr.Baldev Singh, petitioner in person.
Mr.Sapan Dhir, Advocate for the respondents

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S.S.Saron, J.

The petitioner was working with the Punjab and Sind Bank (respondent No.1) (`Bank' for short). The Bank vide circular dated 28.10.2000 circulated the Voluntary Retirement Scheme-2000 (`VRS' for short). In terms of the said VRS, the petitioner applied for voluntary retirement on 2.12.2000. The Bank thereafter on 23.12.2000 (Annexure P2) in continuation of the earlier circular dated 28.10.2000 issued another circular making certain amendments to Bank (Employees) Pension Regulations 1995 (`Regulations' for short). The VRS-2000, inter-alia, provided that the said scheme would remain in operation from 1.12.2000 to 31.12.2000. Besides, an employee seeking voluntary retirement under the VRS would be eligible for all other retirement benefits to which he/she was entitled to under the existing Bank rules/regulations/bipartite settlement/award. It was also provided that it would not be open for an employee to withdraw the request made for voluntary retirement under

the Scheme after having exercised his option. The petitioner after he had retired under the VRS received his pension payment order (PPO) dated 3.5.2001. He then realized that while calculating his pension in terms of the Regulations, five years of his service was not added towards qualifying service for pension which was to be added in terms of Regulation 29(5) of the Regulations. The petitioner in this petition under Article 226/227 of the Constitution of India seeks a mandamus for directing the respondents to comply with the said provisions of Regulation 29(5) of the Regulations and pay him the arrears of Pension with interest on the amount due to him from 1.5. 2001 in accordance with the VRS. It is primarily claimed that a period of five years be added to his qualifying service for the purpose of calculating the pension payable to him.

On notice of motion, reply has been filed on behalf of the respondents. It is stated that the petition is liable to be dismissed being barred by delay and laches. Besides, the petitioner has availed benefit payable under VRS, therefore, he is estopped by his own act and conduct from challenging the benefits of the Scheme at this belated stage. As regards the claim for the benefit of five years service for the purpose of calculating total qualifying service towards pension, it is submitted that the persons who sought voluntary retirement under the VRS are not entitled to the same in view of Regulation 28 of the Regulations as amended.

We have heard the petitioner who appears in person and also learned counsel for the respondents. It is submitted by the petitioner that he is entitled to the benefit of five years qualifying service in terms of Regulation 29(5) of the Regulations. The said Regulation 29(5) reads as under:-

" 29 Pension on Voluntary Retirement

(5)The qualifying service of an employee retiring voluntarily under this regulation shall be increased by a period not exceeding five years, subject to the condition that the total qualifying service rendered by such employee shall not in any case exceed thirty three years and it does not take him beyond the date of superannuation."

A perusal of the above shows that the qualifying service of an employee retiring voluntarily under the Regulations should be increased by a period not exceeding five years subject to the condition that the total qualifying service rendered by such employee shall not in any case exceed 33 years and it does not take him beyond the date of superannuation.

Sh.Sapan Dhir, Advocate, learned counsel for the respondents has submitted that the benefit of five years in terms of the said Regulation 29(5) can only be given if the service of an employee falls short of 33 years so as to give him the benefit of total qualifying service of 33 years.

After giving our thoughtful consideration to the matter, we are unable to agree with the said contention of the learned counsel for the respondents. In the present case, the petitioner joined as training Officer in the Bank on 18.5.1976. He joined as a Regular Officer on 11.3.1977. The Bank was nationalized on 15.4.1980. Thereafter, in terms of a Staff Circular, the Regulations were notified on 20.11.1995. The petitioner applied for voluntary retirement on 2.12.2000. He, therefore, had a service of 23 years and 10 months from the date of his joining as a

regular Officer. Regulation 29(5) does not in any manner limit the qualifying period of service only to give benefit of complete 33 years of service to an employee who falls short of the said period. It is, in fact, provided that the period of qualifying service of an employee retiring voluntarily under the said Regulations shall be increased by a period not exceeding five years. Therefore, to the service period of 23 years and 10 months rendered by the petitioner, he is entitled to add a period of qualifying service not exceeding five years in terms of Regulations 29(5). The condition provided is for the purpose that by adding a period of five years service, the total qualifying service rendered by an employee seeking voluntary retirement is not in any case to exceed 33 years and it does not take such an employee beyond the date of superannuation.

The reliance placed on the amended Regulation 28 of the Regulations by the respondent-Bank is also misplaced. The amendment to Regulation 28 of the Regulations was brought into force vide circular dated 23.12.2000 (Annexure P2). The earlier Regulation 28 read as under:-

> "Superannuation Pension
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> Superannuation pension shall be granted to an employee who has retired on attaining the age of superannuation specified in the service regulations or settlements"

After amendment, Regulation 28 reads as under:-

> "Superannuation pension
>
> Superannuation pension shall be granted to an employee who has retired on his attaining the age of superannuation specified in the service regulations or

settlements.

Provided that, pension shall also be granted to an employee who opts to retire before attaining the age of superannuation, but after minimum period of 15 years in terms of any scheme that may be framed for the purpose by the Bank' Board with the concurrence of the Government."

In terms of the amendment, the proviso has been added, which is to the effect that pension shall also be granted to an employee who opts to retire before attaining the age of superannuation but after minimum period of 15 years in terms of any Scheme that may be framed for the purpose by the Bank/Board with the concurrence of the Government. With the aforesaid amendment, it has been provided that an employee of the Bank who applies for voluntary retirement after having rendered a minimum period of 15 years of service under special/ad hoc scheme formulated with the specific approval of the Government and the Board of Directors would be entitled to pension on pro rata basis for the period of service rendered as if he were to retire on attaining the age of superannuation on that date. However, the respondents have not been able to show as to how the provisions of Regulation 29(5) of the Regulations would be inapplicable in the case of those seeking voluntary retirement. The claim of the petitioner is based on the provisions of Regulation 29(5) for addition of five years service towards qualifying service for the purpose of pension. By amendment of Regulation 28, it is not shown as to how the provisions of Regulation 29(5) of the Regulations have been affected so as to disentitle the petitioner for the benefit of increasing the period of qualifying service

by five years for the purpose of pensionary benefits. Besides, it is also appropriate to note that Rule 4 of the VRS-2000 provides that an employee seeking voluntary retirement under the Scheme, in addition, will be eligible for all other retirement benefits to which he/she is entitled to under the existing bank rules/regulations/bipartite settlement/award. Therefore, also the rules/regulations as existing on the date the petitioner applied for VRS i.e. 2.12.2000 shall govern his rights. The amended Regulation 28 was circulated thereafter on 23.12.2000. The same would not, therefore, apply in respect of the petitioner who sought voluntary retirement earlier on 2.12.2000.

In view of the foregoing discussion, the writ petition is allowed and the respondents are directed to recalculate the pension payable to the petitioner by adding five years of service to his qualifying service and pay him the arrears of pension due to him along with interest at the rate of 9% per annum from the date the amount became due and payable till the date of payment. There shall, however, be not order as to costs.

(S.S. Nijjar)
Judge

(S.S. Saron)
Judge

January 10, 2007

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